

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

FILED BY *Cg* D.C.  
05 JUN -6 PM 3:15  
ROBERT R. DI TROLIO  
CLERK, U.S. DIST. CT.  
W.D. OF TN, MEMPHIS

SMITH & NEPHEW INC.	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 2:04-2446-B/P
v.	)	
	)	
STRYKER CORPORATION and	)	
HOWMEDICA-OSTEONICS	)	
CORPORATION	)	
	)	
Defendants.	)	

**ORDER ON STATUS CONFERENCE  
AND AMENDED SCHEDULING ORDER**

In accordance with a notice filed on May 9, 2005 (Doc. 35), the Court conducted a telephone status conference regarding this action on May 25, 2005 at 9:30 A.M.

James L. Ewing, IV of Kilpatrick Stockton LLP, and Mark Vorder-Bruegge, Jr. of Wyatt, Tarrant & Combs, LLP participated as counsel for plaintiff. Gregory J. Vogler, Esq. of McAndrews, Held & Malloy, Ltd., and Charles F. Newman of Burch, Porter & Johnson, LLP participated as counsel for defendants. Mr. Aaron Pettit, General Counsel of defendant Stryker Corporation, also attended.

\* \* \*

As directed, counsel reported to the Court on the status of discovery and preparation for the current trial setting. As a result of that discussion, the Court makes the following changes in affected portions of the Scheduling Order previously entered on October 4, 2004 (Doc. 25) and the Notice of Setting of trial previously filed on December 30, 2004 (Doc. 33):

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The following amended dates are established as the final dates for:

Amending pleadings: June 30, 2005

Filing of Markman briefs: July 11, 2005

Responses to Markman briefs: August 1, 2005

Completing fact discovery: November 25, 2005

Disclosure of parties' Rule 26 expert information: December 5, 2005

Rebuttal expert information: December 20, 2005

Expert witness depositions: January 30, 2006

Dispositive motions: February 28, 2006

\* \* \*

The Court will schedule a date during August 2005 for a Markman hearing, if deemed necessary upon review of the Markman briefs. The parties anticipate that this hearing, if necessary, will last 1-2 days.

\* \* \*

The dates in the Notice of Setting of trial previously filed on December 30, 2004 (Doc. 33) are amended to the following:

Deadline for submission of joint proposed pre-trial order, motions in limine, and proposed jury instructions: June 29, 2006

Pre-trial conference: July 10, 2006, 9:00 A.M.

Trial (jury): July 17, 2006, 9:30 A.M.

The parties still estimate that the trial will last approximately two weeks, *i.e.*, ten trial days.

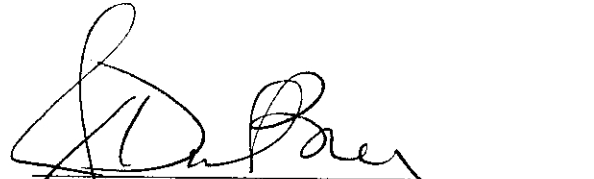
All other provisions in the previous Scheduling Order, and all instructions in the previous Notice of Setting regarding preparation of the proposed pre-trial order and final trial preparation, remain in full force.

\* \* \*

The parties advised the Court that they have previously attempted to settle the case utilizing a private mediator, that this effort has thus far not been successful, and that they do not believe the Court should direct further mediation at this time. The parties will advise the Court if this situation changes.

\* \* \*

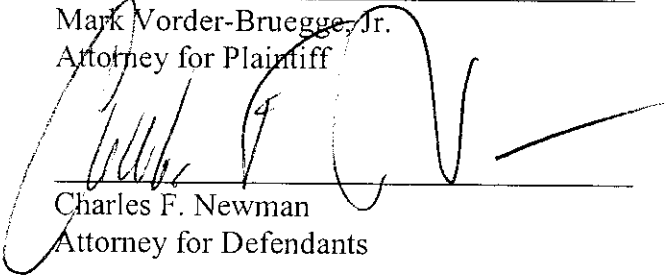
It is so ORDERED.

  
J. DANIEL BREEN  
UNITED STATES DISTRICT JUDGE

PREPARED AT THE COURT'S DIRECTION & APPROVED BY:



Mark Vorder-Bruegge, Jr.  
Attorney for Plaintiff

  
Charles F. Newman  
Attorney for Defendants



## Notice of Distribution

This notice confirms a copy of the document docketed as number 37 in case 2:04-CV-02446 was distributed by fax, mail, or direct printing on June 7, 2005 to the parties listed.

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Honorable J. Breen  
US DISTRICT COURT